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The United States District Court
For the Southern District of New YorkAbraham (Junior) Cruz : No. 1:20-CV-4392 (VEC.-BCM.)
Petitioner, :

U- :

: Honorable Valerie E. Caproni
MCC-New York, Mr. Ryan, : Honorable Barbara C. Moses
Mrs. Hastings, et al., :
Defendants. :Motion of New Evidence Extending Defense
Incompetent Notice of Motion

Document 35 Filed 2/8th/21 pg. 2 of 2 in Error at bottom.
 Abraham (Gr.) Cruz 70167-067 was at MCC-New York from
 Wed 3rd Oct., 2011 - Tue. 23rd Oct., 11 Mr. Mawmanus for a day
 22nd/10/11 Only. Mr. Manuel Mannastein #91648-059
 Cellmate from 10th-21st Oct., 11. Transferred 302^d to Ok city, Ok.
 then to F.B.M.H. Hosp. (F.M.C.-Butler, W.C.). I could not SENTRY
 from Mental Hospital; therefore, please refuse to dismiss or No Exhaustion.
 Whittington U.-Sokol; 491 F. Supp. 2d 1012, 1019 (D. Colo. 2007) Both apply!!
 Days U.-Johnson; 322 F.3d 863, 867 (5th Cir. 2003)

This 31/May/2022

related to him or his cellmate, Plaintiff thinks he was incarcerated at the MCC, and if so, to provide additional information that might allow this Office to locate relevant records (i.e., a federal register number or inmate number). (The Warden of MCC during the relevant timeframe (winter 2011-2012, *see* ECF No. 17, at 4) was Suzanne Hastings.)

Thank you for your consideration of this request.

Respectfully submitted,

AUDREY STRAUSS
Acting United States Attorney for the
Southern District of New York
Attorney for the defendants

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cc: *Pro Se* Plaintiff (via U.S. mail)



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

February 8, 2021

By ECF

The Honorable Barbara Moses
United States Magistrate Judge
Southern District of New York
500 Pearl Street, Room 740
New York, NY 10007

Re: *Abraham Cruz v. I.C. Metro Manhattan, et al.*, 20 Civ. 4392

Dear Judge Moses:

This Office represents the Bureau of Prisons ("BOP") in connection with the above-captioned matter. On January 8, 2021, the Court ordered this Office to identify "(1) the MCC psychiatrist or psychologist to whom plaintiff complained about an assault by a fellow prisoner; (2) the MCC psychiatrist or psychologist who treated or evaluated plaintiff while at the MCC, if different; and (3) the prisoner who was plaintiff's cellmate at the MCC in 2021, whose last name may or may not be some variant of 'Mannanlei.'" ECF No. 34 at 3. Additionally, the Court ordered the Office to "verify the identity of the defendant described as nurse Maria Manning, shield #51673, and . . . provide the addresses, if known, where these defendants may be served." *Id.*

This Office can confirm that an Abraham Cruz, Registration No. 70167-067, was housed at the Metropolitan Correctional Center in New York ("MCC") from October 3, 2012 until November 20, 2012.

According to MCC records, it appears that there were two forensic clinical psychologists who evaluated Cruz while he was at MCC: (1) Kari M. Schlessinger, who evaluated Cruz on October 3, 2012;¹ and (2) William J. Ryan, Ph.D., Forensics Clinical Psychologist, who evaluated Cruz on November 15, 2012.²

With respect to the incident that forms the basis of Cruz's complaint, MCC records indicate that, on November 18, 2012, Cruz was seen by Tonya Cooper, RN, at which time Cruz stated that "he was brushing his teeth and that his roommate put him in a headlock for no reason," and that he had "a bump on his head."³ Upon examination, Nurse Cooper noted a small contusion on the back left side of Cruz's head. Records indicate that Nurse Cooper informed Dr. Ryan of the

¹ Dr. Schlessinger currently serves as the Chief Psychologist at Metropolitan Detention Center Brooklyn, 80 29th Street, Brooklyn, NY 11232.

² Dr. Ryan retired from BOP in October 2013. This Office will provide Dr. Ryan's address to the Court under separate cover, in accordance with the Court's instructions.

³ BOP located a Tonya Cooper, RN in the National Finance Center database. According to that database, Nurse Cooper is health professional in the Commissioned Corps of the U.S. Public Health Service. The database does not contain a current address for Nurse Cooper and BOP has not located any additional records pertaining to Nurse Cooper.

incident, who advised a referral to a psychiatrist. BOP has not been able to locate any psychology report following the incident, and Cruz was transferred out of MCC two days later.

This Office respectfully informs the Court that BOP searched the MCC database for a Nurse Maria Manning and/or nurse bearing a shield #51673, and found no record of either.

Finally, the Office has determined that Cruz's cellmate on or around November 18, 2012 was Michael McManus, Registration No. 91837-054. Mr. McManus is no longer in BOP custody.

Respectfully submitted,

AUDREY STRAUSS
United States Attorney
Southern District of New York

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Case 1:20-cv-04392-VEC-BCM Document 53 Filed 06/04/21 Page 4 of 4

Page 1 of 1 to be 302nd *Exhibit*

NYMDQ

*ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL *

06-03-2021

PAGE 001 OF 001

14:36:29

FUNCTION: ☐ L-P SCOPE: ☐ REG ☒ EQ 70167-067 OUTPUT FORMAT: ☐ FULL

-----LIMITED TO SUBMISSIONS WHICH MATCH ALL LIMITATIONS KEYED BELOW-----

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NO REMEDY DATA EXISTS FOR THIS INMATE

Rec'd Fri 9/9/12 4:03 PM
U.S. District Court
Southern District of New York

Smart Communications/PADOC

SCI-Phoenix

Name Abraham Guion Cruz

Number 24-2555

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St Petersburg FL 33733 Collegeville, PA 19426

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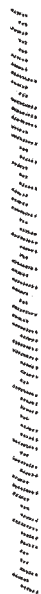
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For: The United States District Court
For the Southern District of New York
500 Pearl St.
New York, New York 10007

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Application DENIED. The Court found that Mr. Cruz's claims were barred by the statute of limitations, and even if they had not been time-barred, that Mr. Cruz had failed to state a claim. *See* Order, Dkt. 78; Judgment, Dkt. 79. The Court sees no reason to reconsider those findings and re-open this case. Accordingly, Mr. Cruz's request in this letter is DENIED.

The Court reiterates to Mr. Cruz that **this case is closed**. The Court will not reopen this case. Accordingly, the Court encourages Mr. Cruz to refrain from making further such requests.

The Clerk of Court is respectfully directed to close the open motion at docket entry 84. The Clerk is further directed to mail a copy of this Order to Mr. Cruz, including the Court's Pennsylvania State Prison "control number" on the envelope, and to note the mailing on the docket.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", is written over the printed name.

Date: June 8, 2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE